United Nations S/2006/311

Security Council

Distr.: General
23 May 2006

Original: English

Letter dated 22 May 2006 from the Chairman of the Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism addressed to the President of the Security Council

The Counter-Terrorism Committee has received the attached fifth report from the Republic of Indonesia submitted pursuant to paragraph 6 of resolution 1373 (2001) (see annex). I would be grateful if you could arrange for the present letter and its annex to be circulated as a document of the Security Council.

(*Signed*) Ellen Margrethe **Løj**
Chairman
Security Council Committee established pursuant to
resolution 1373 (2001) concerning counter-terrorism

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Annex

Letter dated 5 May 2006 from the Chargé d'affaires a.i. of the Permanent Mission of Indonesia to the United Nations addressed to the Chairman of the Counter-Terrorism Committee

Acting upon instructions from my Government, I have the honour to submit herewith the fifth report on the measures taken by the Government of the Republic of Indonesia pursuant to the provisions of paragraph 6 of resolution 1373 (2001) concerning the fight against terrorism (see enclosure). The submission of the report was delayed due to some additional time needed to complete the report in Jakarta.

(*Signed*) Adiyatwidi Adiwoso **Asmady**
Ambassador
Chargé d'affaires a.i.

FIFTH REPORT TO THE COUNTER-TERRORISM COMMITTEE (CTC) OF THE UNITED NATIONS SECURITY COUNCIL PURSUANT TO PARAGRAPH 6 SECURITY COUNCIL RESOLUTION 1373 (2001)

REPUBLIC OF INDONESIA

1. **Implementation measures**

Prevention and suppression of the financing of terrorist acts

1.1 **The Committee takes note of the adoption of Law No.15/2003 on Combating Terrorism and Law No.16/2003 on its enactment. The Committee would appreciate copies of the new laws and would like to know whether they have entered into force and whether their provisions differ in any way from those of the anti-terrorism bill mentioned in previous reports.**

Law No.15/2003 on the Enactment of Government Regulation in lieu of Law No.1/2002 on Combating Terrorism entered into force on 4th April 2003. The provision does not differ in any way from those of the anti-terrorism bill mentioned in previous reports. An unofficial translated copy of the Law No.15/2003 is enclosed in this report.

1.2 **The Committee is aware that the Indonesian authorities may freeze and confiscate funds and assets which are the proceeds of terrorist acts or are derived from the illegal sale of narcotics, pursuant of Law No. 15/2003 on Combating Terrorism and to the relevant anti-narcotics legislation. In order effectively to implement paragraph 1 (c) of resolution 1373 (2001), States shall freeze without delay funds and other financial assets or economic resources of persons who commit, or attempt to commit, terrorist acts or participate in or facilitate the commission of terrorist acts; or entities owned or controlled directly or indirectly by such persons. Are funds and assets of legal origin subject to freezing and confiscation?**

In accordance with Law No.15/2002 on Money Laundering as amended by Law No.25 Year 2003, funds and assets of legal or illegal origin employed directly or indirectly in terrorist attacks are deemed as the proceeds of money laundering crime and are subject to freezing and confiscation.

1.3 **The Committee would like to know what time frame is established under Indonesian law for freezing and confiscating funds and assets related to terrorism, pursuant to paragraph 1 (c) of resolution 1373 (2001), and what measures are in place to ensure that this is done expeditiously.**

In accordance with Article 29 of Law No. 15/2003 on Combating Terrorism, investigators, public prosecutors or judges shall be authorized to order banks and other financial institutions to freeze the assets of any individual, known or reasonably suspected to be the proceeds of criminal act of terrorism and/or criminal acts related to terrorism.

Furthermore in accordance with Article 32 of Law No.15/2002 on Money Laundering which was amended with Law No. 25/2003, freezing and confiscation of assets which are derived from terrorist related acts (as reported by INTRAC to the investigator) will be carried out immediately after Financial Service Provider(s) receive the order in writing from the investigator, public prosecutor or judge.

To ensure that this is done expeditiously, the following measures must be taken:

- If indications of suspicious transactions are found, INTRAC is then obliged to submit its findings to the investigator for follow up within 3 (three) business days;
- Once the findings are received, the investigator, prosecutor or judge gives an order to the Financial Service Providers to freeze assets belonging to any suspect, defendant or any person which are known or reasonably suspected to be derived from terrorist related activities; and
- After carrying out the freezing of assets, financial service providers submit a memorandum or notice (concerning the freezing of assets) to the investigator, public prosecutor or judge no later than 1 (one) business day.

1.4 **The Committee realizes that Law No.15/2002 pertaining to the crime of money-laundering was amended on 13 October 2003, giving the Head of Indonesia's financial intelligence unit (FIU), the Indonesian Financial Transaction Report Analysis Centre (INTRAC), the authority to broaden the definition of financial service providers who are legally obliged to file suspicious transaction reports (STRs) by including individuals and entities such as lawyers, accountants, real estate agents and casinos. The Committee would welcome a progress report on the scope of extension of the reporting obligation.**

Currently, the Indonesian Government is preparing a draft law to amend Law No.25/2003 on Money Laundering. The draft law would broaden the definition of financial service providers by including individual and entities such as accountants, lawyers, real state agents and luxury car dealers.

Cases of Suspicious Transactions (STRs) handled by INTRAC are as follows:

a. Number of STRs filed by Financial Service Providers (FSPs) to INTRAC: 4.074 STRs (as of 31 Mar 2006);

b. Number of cases referred by PPATK to the Police: 416 cases (as of 31 Mar 2006), comprised from 721 STR;

c. Number of the referred cases which were investigated; 72 cases (as of 31 Dec 2005);

d. The number of these investigated cases which led to prosecution; 57 cases (as of 31 Dec 2005);

e. The number of prosecuted cases where convictions were obtained, 27 cases (as of 31 Dec 2005); and

f. The number of STR related to terrorists financing: 5 STR (as of 31 Dec 2005). Those cases have been disseminated to the Police. One of those cases relates to Imam Samudra, a perpetrator of Bali Bombings of 2002 who has been sentenced to death.

1.5 The Committee would welcome clarification of the current relationship between INTRAC and the Center of Financial Transaction Reporting and Analysis (PPATK).

INTRAC (the Indonesian Financial Transaction Analisis Center) and the Center for Financial Transaction Reporting and Analysis (or Pusat Pelaporan Analisa Transaksi Keuangan/PPATK) are the same institution. The institution can be called by its acronyms, either INTRAC (in English) or PPATK (in Bahasa Indonesia/Indonesian Language). In some countries INTRAC is also generally known as a Financial Intelligence Unit (FIU).

1.6 In Indonesia, are all money changers and funds transfer and remittance providers registered or licensed? If so, how many such services are registered and/or licensed in Indonesia? What are the sanctions for failing to register or obtain a license? Does Indonesia recognize informal or alternative money transfer systems such as Hawala? If so, please estimate the number and total amounts of informal money remittances in and outside Indonesia annually.

- All money changers must register to obtain license from Bank Indonesia (Central Bank of Indonesia) before they are in operation. At present, there are more than 800 money changers that have been registered;
- With regard to informal or alternative money remittance services, at present the Government of Indonesia is in the process of drafting a Law on Transfer of Funds which would also regulate informal money remittance;

- Considering that the making of the Law of Transfer of Funds would require a considerable amount of time, the Bank of Indonesia will introduce a Regulation on Money Remittance. The regulation among others will regulate the operation, supervision and sanctions of money remittance providers both formal and informal. The regulation is expected to take effect by the end of year 2006.

Proactive counter-terrorism measures

1.7 **The Committee notes that proactive and preventive counter-terrorism measures are an effective tool for combating terrorism and would appreciate an outline of the legal provisions for preventive (administrative) arrest and subsequent detention without criminal charges being filed.**

Article 28 of the Law No.15/2003 on Combating Terrorism stipulates that investigators can arrest and detain any person strongly suspected of having committed a criminal act of terrorism based on adequate preliminary evidence for not more than 7 x 24 hours.

For the purpose of investigation and prosecution, investigator shall be granted the authority to hold suspects for detention for not more than 6 (six) months (Article 25 (2) of the Law No.15/2003 on Combating Terrorism).

1.8 **Pursuant to paragraph 2 (a) of resolution 1373 (2001), States should suppress recruitment to terrorist groups. What measures is Indonesia taking to prevent such recruitment?**

Article 14 of the Law No.15/2003 on Combating Terrorism stipulates that any person planning and/or mobilizing another person to commit criminal acts of terrorism shall be punished with the death penalty or life imprisonment.

Measures have been taken to prevent recruitment to terrorist groups. These include among others:

- Identifying persons who are potentially to be recruited by terrorist groups;
- Mapping radical movements;
- Monitoring the activities of radical groups;
- Raising public awareness on threats posed by terrorist through dialogues and seminars involving all components of society;
- Conducting anti-violence campaign in cooperation with leaders of religious and educational communities;
- Monitoring and supervising study programs and curriculums in all educational institutions throughout the country;

- Reviewing both printed and non printed materials which may incite hatred and encourage terrorist's acts;
- Minimizing and preventing the rise of social conflicts;
- Empowering the moderates; and
- Strengthening the role of the media in preventing violent radical acts.

1.9 **Also pursuant to paragraph 2 (a) of resolution 1373 (2001), States should eliminate the supply of weapons to terrorists. Does Indonesia have any measures, such as a licensing or reporting system, to control or monitor the possession, transfer, import and export of firearms, ammunition and explosives?**

Indonesia has adopted a number of laws and regulations to license, control or monitor the possession, transfer and export of firearms, ammunition and explosives, as follows:

a. Law No.8/1948 on the Licensing and Permits of Firearms;

b. Emergency Law No.12/1951 on Firearms and Explosives Materials;

c. Ordinance on Explosive Devices LN.1931 No.168;

d. Government Decree No.20/1960 on the Authorization of Permits;

e. Presidential Decree No.125/1999 on Explosive Materials;

f. Law No.2/2002 on the Indonesian National Police;

g. Law No.15/2003 on Combating Terrorism; and

h. Head of the Indonesian National Police Act. No.82/11/2004 on the Procedures for Possession of Firearms.

As stipulated in Law No.8/1948 Article 13, the misuse of firearms permit is a criminal act. Any license previously given upon such violation will be revoked while the fire arms will be confiscated and kept in Police custody.

For the licensing or authorization of the import, export and transit of firearms, their parts and components and ammunition, Indonesia applies the Law No.8/1948 on Firearms which regulates that exporting and importing companies requires a permit from the Indonesian National Police.

Illicit production, receipt, transfers, smuggling, unauthorized possession of firearms, their ammunitions and explosives is punishable according to the Emergency Law No.12/1951 article 1 paragraph 1, carries a maximum punishment of 20 years imprisonment or the death penalty. In combating illicit firearms (for

non-military/police use), the Chief of Indonesian Police also issued the Chief of the Indonesian National Police Decree No.82/11/2004.

To facilitate the tracing of firearms, the Indonesian National Police maintains filing and recording of all licensed firearms (for non military/police use), including results of ballistic tests. Records of deactivation of firearms for collection purposes are regulated by the Chief of the Indonesian National Police Decree No.82 November 2004.

To prevent the loss, theft or diversion of firearms use for illegal purposes, Indonesia applies the Decree No.82/2004 which is an implementing regulation of the Law No.8/1948 on Firearms. The Law stipulates that those who use firearms must renew their license annually while those who own firearms must renew their license every 5 years.

According to Article 9 of Law No.15/2003 on Combating Terrorism, any person unlawfully importing to Indonesia, making, receiving, attempting to acquire, delivering or attempting to deliver, take control over, carrying, keeping on stock of his own or possessing, storing, transporting, hiding, using, or carrying into and/or out of Indonesia any firearms, ammunition, or explosive substances, and other hazardous substances with the intention to commit a criminal act of terrorism, shall be sentenced to life imprisonment or imprisonment for not less than 3 (three) years and for not more than 20 (twenty) years or even the death penalty.

1.10 Are accommodation facilities such as hotels and inns legally required to verify their guests' identification and to transmit this information to the designed authorities?

In accordance with Article 60 of Law No.9/1992 on Immigration, any person who provide temporary accommodation within their premises to foreign nationals is required to report to the Police or to the Local Government, the identity of those foreign nationals within 24 hours since their first arrival. The failure to report to the above authorities is punishable by a fine or prison sentence for a maximum of 1 (one year).

Furthermore, the Chief of the Indonesian National Police has also issued and enacted a number of legal provisions to ensure that the proprietors of Hotels and Accommodation facilities are legally required to routinely submit all the names of their Guest Lists to the Police. Foreign nationals with temporary residence permits are legally required to report of their stay to the Police as soon as they entered the Indonesian territory.

Effectiveness in extradition and mutual legal assistance

1.11 **The Committee is aware that Indonesia has concluded six bilateral extradition treaties and three bilateral mutual legal assistance treaties. Are extradition and legal assistance possible in the absence of such treaties, on the principle of reciprocity? If not, how would Indonesia handle a request for extradition or legal assistance from a country with which it has no treaty or agreement?**

According to Law No.1/2006 on Mutual Legal Assistance in Criminal Matters, in the absence of a bilateral treaty, legal assistance is possible on the principle of reciprocity with other states.

According to Law No.1/1979 on Extradition, in the absence of bilateral treaty, extradition is possible on the principle of good relations with other states.

To handle a request for extradition or legal assistance from a country with which Indonesia has no treaty or agreement, the Minister of Justice and Human Rights (as the Central Authority to process a request for extradition and legal assistance from other states) has to make a statement that he will be bound to give the same assistance if subsequently the Government of a requesting state submits a similar request for extradition and legal assistance to the Government of the Republic of Indonesia.

1.12 **The Committee would also welcome statistics on the decisions taken in cases involving extradition and mutual legal assistance.**

Statistics on the decisions taken involving extradition and mutual legal assistance from a requesting state:

- Total request from countries in Asia = 4

Decisions taken:

Finished request 1; in process 1; more information needed 1; and request denied 1.

- Total request from countries in Europe = 17.

Decisions taken:

Finished request 4; in process 12; more information needed 1 and request denied 0.

- Total request from the U.S = 3.

Decisions taken:

Finished request 1; in process 2; more information needed 0 and request denied 0.

- Total request from Australia = 1.

Decisions taken:

Finished request 1; in process 0; more information needed 0 and request denied 0.

- Total request from countries in Africa = 0.

1.13 **What is the time period within which a request for judicial assistance in criminal investigations or criminal proceedings must be met and how long does it take, in practice, to implement such a request?**

The time it takes in practice to implement such a request normally would fall within the period of 1 (one) – 2 (two) months; as the process would involve among others a careful legal analysis by relevant agencies through inter-agency meetings and written communication procedures between relevant agencies.

Immigration controls

1.14 **At the time of submission of Indonesia's first report, enhanced anti-forgery features for passports and travel documents were being prepared. The Committee would appreciate an update on this process. Do Indonesia's immigration checkpoints have enough equipment and human expertise to deter counterfeit travel documents? If not, what is needed in order to improve their capacities?**

The Directorate General of Immigration has established Forensic Documents Laboratory Examinations Units for the purpose of enhancing anti-forgery measures for travel documents. These units are currently placed at the Directorate General of Immigration's Head Office in Jakarta, the Soekarno-Hatta International Airport in Jakarta and at the Ngurah Rai International Airport in Denpasar, Bali.

In the area of capacity building, the Directorate General of Immigration has held training programs for its staff in the field of Forensic Documents Examinations in a number of cities such as Medan, Tanjung Pinang, Jakarta, Surabaya, Denpasar, Mataram and Jayapura. These programs have been conducted in cooperation with the Australian Immigration Office, the International Organization for Migration (IOM) and the U.S Immigration and Naturalization Service (INS). In 2005, 1.009 staff of the Directorate General of Immigration participated in these training programs.

1.15 **While the first report (p.13) states that Indonesia has set up an interdepartmental task force to deal with irregular migrants, the second report (p.15) indicates that the Directorate General of Immigration is still in the process of establishing a task force dealing with illegal immigrants in Indonesia. The Committee would like to receive an update and clarification of this point.**

The draft Presidential Decree concerning the Establishment of a Joint Task Force Unit on Illegal Immigrants is currently under deliberation amongst relevant departments/agencies.

With the aim to forge a closer link and network with Indonesia's intelligence community nation-wide as well as to support intelligence surveillance, research and analysis in order to strengthen border control management and to prevent and counter the flow of illegal immigrants as well as to combat terrorism, the Directorate General of Immigration has established a new Directorate called the Directorate for Immigration Intelligence and Border Checkpoint.

1.16 **The Committee notes that Indonesia has a governmental body consisting of various agencies which regulate and monitor the activities of foreigners in the country. Has Indonesia introduced specific technology or other special measures, such as fingerprinting, to prevent the forgery or falsification of identification documents?**

Recently the Directorate General of Immigration has introduced a particular code system on Indonesian Passports which relates to biometric features of its holders.

Aviation security

1.17 **Indonesia states in its fourth report that it has not yet introduced the Advance Passenger Information System (APIS). The Committee would welcome a progress report on this matter.**

The Directorate General of Immigration has not yet applied the Advanced Passenger Information System (APIS). It has, however, conducted pro-active measures against information related to potential passengers suspected as terrorists.

Should there be information on the plan of arrival of certain individual suspected to be involved in terrorist act or acts, the Directorate General of Immigration would contact the relevant airlines to check whether such individual is on the list of pre-manifest or booking to journey to Indonesia. The same procedures are applied to Indonesian citizens who have deported from other countries. The Directorate-General of Immigration would receive such information from Indonesian Embassies/Consulates. Thus, necessary measures in

coordination with the security apparatus, such as the Police or Intelligence Apparatus, may be taken at the airport of destination.

1.18 **The Committee notes that Indonesia is a contracting State of the International Civil Aviation Organization (ICAO). Has Indonesia been audited on the basis of the Universal Security Audit Program (USAP) of the Aviation Security Plan of Action? If so, what difficulties and deficiencies have been identified, particularly with respect to the Standards and Practices detailed in Annex 17 to the Convention on International Civil Aviation?**

Indonesia has been audited on the basis of the Universal Security Audit Program (USAP) of the Aviation Security Plan of Action on 6-15 July 2004.

Based on the ICAO Audit Team results and its current recommendation, the Government of the Republic of Indonesia has submitted an Action Plan of Corrective Action on the 20th January 2005 to the ICAO. Most of the Corrective Action has been accomplished. In this regard, a review team which consists of the ICAO AVSEC Expert Representative will visit Indonesia to review the steps and actions that has been done by Indonesia.

Customs controls

1.19 **Would Indonesia kindly outline the monitoring strategies and methods that customs uses to ensure the security of shipments entering and exiting its territory, using all modes or transport, against all acts of terrorism? To what extent do these strategies and methods take into account the World Customs Organization's Framework of Standards to Secure and Facilitate Global Trade?**

The Directorate General of Customs and Excise has adopted and implemented monitoring strategies and methods in customs to ensure the security of shipments entering and exiting its territory using all modes or transport, against all acts of terrorism in line with the World Custom Organization's (WCOs) Framework of Standards to Secure and Facilitate Global Trade.

Monitoring Strategies

In order to ensure the security of shipments of goods entering and exiting of Indonesia's territory, the Directorate General of Customs and Excise has undertaken a number of monitoring strategies as follows:

- Implementing a Container Security Regime;
- Implementing a Common electronic data standard as recommended and developed by the WCO;

- Initiating a supply chain security system on the private sector; and
- Strengthening the capacity and capability of Customs officials.

Monitoring Methods

a. Electronic Customs reporting (as developed by the World Customs Organization)

Adopting and implementing an automation system (computerized customs clearance systems) of the Directorate General of Customs and Excise in all 12 major Indonesian Ports. The Directorate General has also applied a new import and export procedures for traders with the aim to speed up the processing of goods without verification process or physical inspection. Recently, the Directorate General of Customs and Excise has installed an Electronic Intelligence Note Analyst System to distribute intelligent products electronically through nationwide and real time.

b. Implementing a container security regime

The Directorate General of Customs and Excise has already developed a security criterion for identifying high risk containers. Furthermore, traders are also required to lodge customs declarations electronically through the EDI system, prior to the importation and exporting of goods. To pre-screen high risk containers, the Directorate General for Customs and Excise has already utilized Container X-ray scanning machine and acquired 3 (three) radio active detectors and 2 (two) Itemizers as well as the installment of Close Circuit TVs (CCTC) in a number of Ports.

c. Promoting private-sector adoption of high standards of supply chain security

Several measures have been introduced to encourage participation and involvement of relevant stakeholders, which include the establishment of a Customs Advisory Committee comprising related public and private sectors; the signing of a number of Memorandums of Understanding (MoUs) with a number of Importers and Exporters Association, Ship Owners Associations and Forwarding Company Association; as well as the establishment of an inter-agency level Liaison Channels between the private sector and law enforcement agencies.

International counter-terrorism instruments

1.20 The Committee would appreciate receiving a further progress report on ratification of the international counter-terrorism conventions and protocols to which Indonesia was not yet a party at the time of submission of its fourth report.

- Indonesia has become party to four UN Conventions dealing with international terrorism :

  a. Convention on Offences and Certain other Acts Committed on Board Aircraft (1963) – ratified by Law No.2/1976;

  b. Convention for the Suppression of Unlawful Seizure on Aircraft (1970)- ratified by Law No.2/1976;

  c. Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation (1971)- ratified by Law No.2 /1976; and

  d. Convention on the Physical Protection of Nuclear Material (1980)-ratified by the Presidential Act No.49 Year 1986.

- Indonesia has signed the Protocol on the Suppression of Unlawful Acts of Violence at Airports Serving International Civil Aviation, supplementary to the Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation (1988).

- Indonesia has recently (in March 2006) ratified the 2 (two) following Conventions relating to international counter-terrorism:

  a. The International Convention for the Suppression of the Financing of Terrorism (1999); and

  b. The International Convention for the Suppression of Terrorist Bombings (1997).

2. Implementation of resolution 1624 (2005)

Paragraph 1

2.1 What measures does Indonesia have in place to prohibit by law and to prevent incitement to commit a terrorist act or acts? What further steps, if any, are under consideration?

Article 14 of the Law No.15/2003 on Combating Terrorism, stipulates that any person who plans or incites other people to commit acts of terrorism is subject to criminal sanction which carries a maximum sentence of life imprisonment or even the death sentence.

2.2 What measures does Indonesia take to deny safe haven to any persons with respect to whom there is credible and relevant

information giving serious reasons for considering that they have been guilty of incitement to commit a terrorist act or acts?

Article 13 (b) of the Law No.15/2003 on Combating Terrorism stipulates that any person who provides a hiding place to terrorists will be charged as a criminal and is punishable by a minimum of 3 years in prison or a maximum of 15 years in prison.

Additionally, Law No.9/1992 on Immigration contains provisions which could be applied to ensure that no safe haven is given to those who plan, finance, support or commit terrorist acts. Article 42 (2) of this Law provides steps to be taken against foreigners residing in Indonesia who carry out dangerous activities or activities deemed to threaten public order or violating existing national laws and regulations. Such steps include their deportation and denial of entry to Indonesia. Furthermore, Article 17, among others, stipulates that denial of entry into Indonesian territory is applied to foreign nationals who are involved in an international crime syndicate or suspected of committing acts against the general security and public order.

Paragraph 2

2.3 **How does Indonesia cooperate with other States in strengthening the security of its international borders with a view to preventing those guilty of incitement to commit a terrorist act or acts from entering their territory including by combating fraudulent travel documents and, to the extent attainable, by enhancing terrorist screening and passenger security procedures?**

In strengthening the security of its international borders, Indonesia is engaged in cooperation with other states through a number of bilateral and regional cooperation frameworks. The objective of such cooperation is to combat fraudulent travel documents, screen potential terrorists and perform passenger security procedures. Furthermore, cooperation with other states is also pursued to strengthen the exchange of information procedures.

Paragraph 3

2.4 **What international efforts is Indonesia participating in or considering participating in/initiating in order to enhance dialogue and broaden understanding among civilizations in an effort to prevent the indiscriminate targeting of different religions and cultures?**

In an effort to prevent the indiscriminate targeting of different religions and cultures, Indonesia has taken the lead, hosted and participated in a number of Interfaith Dialogues with other countries such as:

- The International Conference of Islamic Scholars (ICIS) with the theme "Upholding Islam as Rahma lil Alamiin", held in Jakarta on 23-24 February 2004;
- The Dialogue on Interfaith Cooperation (co-sponsored with the Australian Government) with the theme "Community Building and Harmony", held in Yogyakarta on 6-7 Desember 2004. One of the outcomes of this meeting is the establishment of the "Yogyakarta International Center for Religious and Cultural Cooperation";
- The ASEM Interfaith Dialogue among Culture and Civilizations, held in Bali on 21-22 Juli 2005 (in cooperation with the United Kingdom and the European Union);
- The Second International Roundtable Discussion on Islam and Democratization In Southeast Asia: Challenges and Opportunities, held in Jakarta on 6-7 December 2005;
- The East Asia Religious Leader Forum, held in Jakarta on 12-13 February 2006; and
- The Second Dialog on Interfaith Cooperation, held in Cebu City, the Philippines on 14-16 March 2006.

2.5 **What steps is Indonesia taking to counter incitement of terrorist acts motivated by extremism and intolerance and to prevent subversion of educational, cultural and religious institutions by terrorist and their supporters?**

The Government of Indonesia c.q the Department of Religious Affairs in cooperation with the Council of Indonesian Ulamas (Majelis Ulama Indonesia/MUI) as well as with the 2 (two) largest Islamic Organizations in Indonesia (the Nahdlatul Ulama and the Muhammadiyah) has established a counter-terrorism team with the aim to spread the true and rightful Islamic culture of peace, non-violence and tolerance especially among the young people.

The above mentioned team, through religious organizations and leaders (Ulamas), is disseminating socializing concepts, teachings and ideas of Islam based on tolerance and peaceful harmony. One of the team's main tasks is to explain the right religious context of Jihad and to disassociate Jihad from violent extremism and terrorist related acts.

Paragraph 4

2.6 **What is Indonesia doing to ensure that any measures taken to implement paragraphs 1, 2 and 3 of resolution 1624 (2005) comply with all of its obligations under international law, in particular international human rights law, refugee law and humanitarian law?**

According to Article 2 of the Law No.15/2003 on Combating Terrorism, eradication of criminal acts of terrorism shall be a set of policies and strategic steps to strengthen the public order and safety by remaining committed to upholding the law and human rights, non-discriminatory in nature in respect of ethnicity, race or groups.

The Law on Combating Terrorism also includes provisions which cover the rights of a victim or heir of the victim as well as the rights of a defendant accused of terrorist acts.

According to Article 36 of the Law No.15/2003 on Combating Terrorism stipulates that victims or heir of the victims of terrorist acts shall be entitled to compensation and/or restitution.

According to Article 37 of the Law No.15/2003, individuals who are discharged of all legal charges by the Court with a permanent legal stature shall also be entitled to rehabilitation.

According to Article 35 of the Law No.15/2003 stipulate that a defendant can file an appeal against the verdict by the Court or express objection for the passing of the verdict.

In protecting witnesses and victims of criminal acts, Indonesia has also other legislations in place as follows:

- Law No. 26/2000 on Human Rights Court which covers the rights from physical and mental protection from threat of terror and violence. This protection should be conducted by law enforcement apparatus and security apparatus without additional cost;
- Government Regulation No.2/2001 on the Protection of Victims and Witnesses for Serious Human Rights Violations;
- Government Regulation No.23/2003 on the Protection of Witness.

Furthermore, in order to prevent torture, cruel, inhuman or degrading treatment or punishment, Indonesia has enacted several legislation as follows:

- Law No.39/1999 on Human Rights;
- Law No.8/1981 on Criminal Procedures;
- Law No.1/1946 on Penal Code; and
- Law No.5/1998 on the Ratification of the International Convention against Torture, Cruel, Inhuman or Degrading Treatment or Punishment.

3. Assistance and guidance

3.1 The Committee wishes to emphasize once more the importance that it attaches to the provision of assistance and advice in connection with the implementation of the resolutions. The Committee's Directory of Assistance (www.un.org/sc/ctc) is frequently updated to include new relevant information on available assistance. The Committee takes note of the fields of technical assistance requested by Indonesia in its fourth report (pp. 7 and 8) and is pleased to inform Indonesia that its requested assistance has been brought to the attention of potential technical assistance providers through the Committee Matrix.

3.2 Furthermore, in light of the specific areas related to Indonesia's implementation of resolution 1373 (2001) outlined in Section 1 of this letter, and based on Indonesia's reports to the Committee and on the other relevant information available, the Committee, with assistance from the CTED experts, has conducted a preliminary analysis of Indonesia's technical assistance needs in order to identify priority areas in which the Committee believes Indonesia may benefit from receiving technical assistance. With the agreement of and in cooperation with the Government of Indonesia, the aim is to identify the best possible way for Indonesia to benefit from technical assistance in order to strengthen its implementation of the provisions of this resolution.

3.3 The analysis identified, on a preliminary basis, the following potential areas of assistance needs, with the understanding that further assessments may be necessary. The points below represent *selected* areas, amongst the areas referred to in the resolution, where the assistance might be particularly useful:

In strengthening the capacity building of Indonesia's law enforcement agencies efforts in counter-terrorism, the Indonesian Government therefore would welcome technical assistance offered by donor countries.

3.4 The Committee would like to receive your country's approval to share the above mentioned points with donor States and organizations that may be in a position to provide assistance in these *selected* areas (other parts of this letter will not be shared). This would enable the Committee to facilitate the provision of technical assistance. The Committee would appreciate receiving your country's response no later than 30 days from the date of this letter. If your country's response is not received within that period, the Committee will assume that the points could be shared with the donor States and organizations. The actual provision of assistance will naturally be subject to Indonesia's

request and consent. The Committee would also welcome any comments they may have regarding this section (Section 3 on 'assistance and guidance').

4. Further guidance and submission of further report

4.1 The Committee wishes to maintain the constructive dialogue it has established with Indonesia in relation to measures it is taking to implement the resolutions, in particular with regard to the areas identified in this letter as a priority. The Committee and its Executive Director stand ready to provide further clarification to Indonesia on any of the matters raised in this letter. The Executive Director can be contacted through Ms. Elena Rigacci Hay (telephone: +1 212 457 1733; fax: +1 212 457 4041; email: cted@un.org). In addition, the Committee, through its Executive Directorate, may contact Indonesia's competent authorities to discuss any further matters related to the implementation of the resolution.

4.2 The Committee would be grateful to receive from Indonesia further information on the questions and comments raised in Section 1 and 2 of this letter by 1 May 2006. Moreover, the Committee would be grateful if Indonesia would provide it with an update on assistance it has received, or is in the process of receiving, including on whether such assistance has satisfied, or is expected to satisfy, Indonesia's needs related to the resolutions. As with previous reports, it is the intention of the Committee to circulate the further report as a document of the Security Council. It is open to Indonesia, if desired, to submit a confidential annex to the report for the attention of the Committee and its Executive Directorate alone.

4.3 The Committee may, in a future stage of its work, have further comments or questions for Indonesia arising from other aspects of the resolutions. It would be grateful to be kept informed of all relevant developments regarding the implementation of the resolutions by Indonesia.

United Nations S/2006/312

Security Council

Distr.: General
23 May 2006

Original: English

Letter dated 22 May 2006 from the Chairman of the Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism addressed to the President of the Security Council

The Counter-Terrorism Committee has received the attached fifth report from Liechtenstein submitted pursuant to paragraph 6 of resolution 1373 (2001) (see annex). I would be grateful if you could arrange for the present letter and its annex to be circulated as a document of the Security Council.

(*Signed*) Ellen Margrethe **Løj**
Chairman
Security Council Committee established pursuant to
resolution 1373 (2001) concerning counter-terrorism

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Annex

Letter dated 16 May 2006 from the Permanent Representative of Liechtenstein to the United Nations addressed to the Chairman of the Counter-Terrorism Committee

I have the honour to refer to your letter dated 31 January 2006 and to submit herewith the fifth report of the Principality of Liechtenstein to the Counter-Terrorism Committee responding to questions raised by the Committee regarding Liechtenstein's implementation of Security Council resolutions 1373 (2001) and 1624 (2005).

(*Signed*) Christian **Wenaweser**
Ambassador, Permanent Representative

Enclosure*

Fifth Report of the Principality of Liechtenstein to the Counter-Terrorism Committee established by Security Council resolution 1373 (2001) 9 May 2006

With the following report, Liechtenstein is submitting additional information to the Counter-Terrorism Committee (CTC) established by resolution 1373 (2001), in accordance with the letter of the CTC dated 31 January 2006. Earlier reports are contained in documents S/2002/1253, S/2002/788, S/2003/273 and S/2004/254. The Government emphasizes that it continues to accord the highest priority to international cooperation in combating terrorism, and it views the dialogue with the CTC as a key element of this cooperation.

The structure of the report follows that of the letter of the CTC (Annex 1).

1. Implementation measures

1.1. Anti-Terrorism Package

On 22 October 2003, the Liechtenstein Parliament adopted the referenced Anti-Terrorism Package. The law entered into force on 10 December 2003 and is included with this report (Annex 2).

1.2 Terrorist groups; financing of terrorism

§ 278b criminalizes certain conduct in connection with terrorist groups. The definition of a terrorist group is given in paragraph 3: A terrorist group is an association of more than two persons, established over a period of time and aimed at the commission of one or more terrorist offenses by one or more of its members. Terrorist offenses are defined in § 278 paragraph 1 of the Criminal Code (*Strafgesetzbuch*, StGB). The degree of organization of a terrorist group corresponds to that of a criminal group.

On 2 October 2001, Liechtenstein signed the International Convention for the Suppression of the Financing of Terrorism ("Terrorist Financing Convention"), and ratified it on 9 July 2003. Article 2, paragraph 1(a) of this convention provides for a criminalization of the provision or collection of funds to be used to carry out an act which constitutes an offense within the scope

* Annexes are on file with the Secretariat and are available for consultation.

of one of the nine treaties listed in the convention's annex. Liechtenstein has ratified all of these treaties.

Supplemental to the Terrorist Financing Convention, paragraph 1(b) of resolution 1373 (2001) adopted by the UN Security Council on 28 September 2001 requires all States to criminalize the willful provision or collection of funds for the commission of terrorist acts.

To implement its international obligations, Liechtenstein included a new § 278d in its Criminal Code to combat the financing of terrorism. § 278d criminalizes the intentional provision or collection of assets for the commission of terrorist acts, independently of whether these acts were to be committed by one or more persons. § 278d entered into force as a component of the Anti-Terrorism Package on 10 December 2003 (see Annex 2).

1.3 Due Diligence Act

Liechtenstein has conducted a total revision of its Due Diligence Act. The revised law (see Annex 3) entered into force on 1 February 2005. The necessity of a revision arose primarily from Liechtenstein's obligation to implement the 2nd EU directive on money laundering. At the same time, the opportunity was used to incorporate the newest developments and international standards relating to the prevention of money laundering, organized crime, and financing of terrorism.

Focus areas of the revision include in particular an expansion of the object of the law and its personal scope of application, as well as a clearer definition of its substantive scope of application. The revised law now also deals with the suppression of terrorist financing and extends its scope of application to accountants, auditing companies, real estate brokers, traders in valuable goods, auctioneers, and gambling houses. In addition, new obligations relating to correspondence banking and electronic payments as well as risk-adequate global monitoring have been introduced.

Domestic implementation of the revised law has been unproblematic.

1.4 3rd EU directive on money laundering

Liechtenstein is a member of the European Economic Area (EEA). The 3rd EU directive on money laundering has not yet been officially incorporated into the EEA Agreement by the three EEA States, but incorporation is expected in the next few months. This will entail that the 3rd EU directive on money laundering will also become applicable to Liechtenstein and that it must be implemented into national law by the specified deadline. The need to amend national law is currently being reviewed.

1.5 Implementation of FATF SR IX

Liechtenstein has appointed a working group to implement FATF SR IX. Any need for amendments will be undertaken in the framework of the Customs Union with Switzerland. Requisite measures are currently being reviewed, especially to what extent a coordinated approach with Switzerland will be necessary.

1.6 Jurisdiction for offenses committed abroad

According to § 64 paragraph 1(10) Criminal Code (StGB), Liechtenstein criminal law applies to the following offenses committed abroad, irrespective of the criminal laws of the jurisdiction in which the offense was committed:

- leadership of or membership in a terrorist group (§ 278b),
- terrorist offenses (§ 278c),
- the following offenses committed in this connection abroad: theft according to §§ 128 to 131, blackmail according to §§ 144 and 145, falsification of documents (§ 223), and falsification of specially protected documents (§ 224).

However, at least one of the following conditions must apply in this regard:

- The perpetrator was a Liechtenstein citizen at the time of the offense, or the perpetrator acquired Liechtenstein citizenship later and still holds it at the time the prosecution is initiated; or
- the perpetrator's official or usual place of residence is in Liechtenstein; or
- the offense was committed for the benefit of a legal entity domiciled in Liechtenstein; or
- the offense was committed against the Reigning Prince, Parliament, the Government, a court, any other authority, or the population of Liechtenstein; or
- the perpetrator was a foreign citizen at the time of the offense, is present in Liechtenstein, and cannot be extradited.

The corresponding legal provisions (§§ 128-131, 144, 145, 223 and 224 StGB) are enclosed (Annex 4).

1.7 Charitable organizations

There are currently about 180 foundations and other legal entities in Liechtenstein with a charitable mandate. The procedure according to article 124 of the Law on Persons and Companies (*Personen- und Gesellschaftsrecht*, PGR) is a workable instrument that complements the other provisions of the PGR. While the PGR contains provisions intended to prevent the formation of legal entities with unlawful or immoral content, article 124 complements these provisions by providing the possibility of intervening against such entities and enforcing their liquidation at any time between formation and

termination. Article 124 expands these possibilities by expressly relying on the actual purpose of the entity: The actual activities are taken into account, rather than simply the purpose entered in the Public Register or included in the entity's bylaws. In addition, the circle of persons entitled to initiate action in accordance with article 124 PGR, in particular those affected and the Public Prosecutor, ensures that this provision can be applied as soon as irregularities become known.

1.8 Frozen assets; forfeiture

Six suspicious activity reports have been submitted to the FIU in connection with the suppression of terrorist financing. In none of these cases have investigations by the Office of the Public Prosecutor confirmed the suspicion of financing of terrorism based on the documents accessible in Liechtenstein. The proceedings have been suspended. All of the documents compiled in the course of these proceedings have been transferred to foreign authorities pursuant to requests for international legal assistance.

As already mentioned in the 3rd and 4th CTC reports, total assets in the amount of CHF 182,000 are currently frozen in Liechtenstein. This amount has not changed since the beginning of 2002. For an explanation of this amount, see paragraph 12 of the report submitted by Liechtenstein to the committee established pursuant to resolution 1267 (1999), published under S/AC.37/2003/(1455)/52.

In rem proceedings are available under Liechtenstein law, called *objective forfeiture proceedings*. This procedure is governed by §§ 356, 356a and 357 of the Code of Criminal Procedure. In practice, it is used primarily in economic criminal proceedings and could also be applied in terrorism proceedings. Currently, no such proceedings are pending.

1.9 Suspicious activity reports

193 suspicious activity reports were submitted to the FIU in 2005, 234 in 2004, and 172 in 2003. Just under 95% of the suspicious transaction reports are submitted by banks or professional trustees.

As the responsible authority for receiving suspicious activity reports, the FIU analyzes the submitted reports and decides on whether to forward them to the prosecution authorities. In the last 3 years, over two thirds of the suspicious activity reports have been forwarded to the Office of the Public Prosecutor. Additional information can be obtained from the annual reports of the FIU (Annex 5).

As explained in section 1.8, the criminal proceedings initiated in Liechtenstein pertaining to terrorist financing have been suspended.

1.10 Memoranda of Understanding with foreign FIUs

Since the fourth report, the FIU has concluded MOUs with Croatia, Poland, Georgia, Monaco, Russia, and Switzerland.

1.11 Accession to the Vienna Convention on Drugs; Palermo Convention

The Government plans to submit a proposal for accession to the United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances (1988) to Parliament after the summer break. Provided that Parliament gives its assent, the accession procedure will be completed in late autumn 2006. Liechtenstein's national legislation is already in compliance with the provisions of the 1988 Convention.

With regard to the United Nations Convention against Transnational Organized Crime and two of its Protocols, the Government has proposed amendments to national law that would be necessary to fully comply with these legal instruments. The public consultation on this matter also includes substantial amendments to the Criminal Code and the Mutual Legal Assistance Act in order to implement the 2nd EU directive on money laundering and the 40 revised FATF recommendations. After having assessed the results of this consultation, the Government will submit a bill to Parliament.

2. Implementation of resolution 1624 (2005); incitement to terrorism

2.1 – 2.3 Prohibition of incitement; safe haven; border controls

The call of the Security Council in resolution 1624 to take the "necessary and appropriate" measures relating to incitement of terrorist acts must be viewed in light of the special characteristics of the country, especially its manageable size. § 283 StGB prohibits all forms of discrimination and the propagation of hatred against persons on the basis of their race, ethnicity, or religion. Moreover, § 12 StGB criminalizes incitement of all types of offenses, including offenses relevant to terrorism. Persons present in Liechtenstein suspected of incitement are prosecuted by the responsible authorities or can be extradited to foreign countries pursuant to existing legal assistance obligations.

There is also no realistic danger that Liechtenstein could be used as a safe haven by persons connected with incitement to terrorist acts. Permits to stay in Liechtenstein are granted on a very restrictive basis. The procedure applies a quota system (currently a maximum of 56 permits a year). A prerequisite is proof of future employment in Liechtenstein. For this reason, persons granted permits are generally experts and specialists.

The granting of visas is administered by the Swiss authorities.

Liechtenstein's international border with Austria is controlled by the Swiss border police pursuant to bilateral customs and police cooperation agreements. Accordingly, the security standards correspond to those in Switzerland. Moreover, as there is no airport in Liechtenstein, no one can enter the country directly by plane. The Liechtenstein police have access to electronic databases to identify persons associated with terrorism. These databases are linked to the stolen travel document database of Interpol to check suspicious documents online immediately.

According to the Visa Waiver Program of the US Government, the risk is extremely low that Liechtenstein passports could be counterfeited or used as fraudulent travel documents by terrorists. Only one administrative office in Liechtenstein issues travel documents (to date, no blank passports have disappeared or been stolen). Moreover, since Liechtenstein travel documents always attract the particular attention of border guards, they are not useful to terrorists.

2.4 – 2.6 Intercultural dialogue, prevention, human rights

At the international level, Liechtenstein's efforts to strengthen dialogue among different countries, cultures, and civilizations include its active engagement at the United Nations. Liechtenstein often acts as a mediator and is engaged in strengthening the United Nations as a forum of multilateral diplomacy.

At the national level, the activities of the Office of Equal Opportunity are of particular note. On 21 March 2006, for instance, the "No Exclusion" billboard campaign was launched, which contains pointed statements relating to the problems of unequal treatment and racially motivated exclusion.

In June 2002, the Government appointed an inter-office Working Group against Racism, Anti-Semitism, and Xenophobia, which supports the coordination of Liechtenstein's comprehensive integration policy. With respect to integration policy as such, an integration policy framework is currently under development.

Liechtenstein places great importance on compliance with all standards of human rights and international law in the fight against terrorism on the part of all States and all responsible organs of international organizations. For a detailed explanation of the standards applicable in Liechtenstein and their implementation, please consult the relevant reports to the responsible bodies (e.g., ICCPR Human Rights Committee).

3. Technical assistance

Liechtenstein has offered technical assistance to the CTC relating to the suppression of terrorism (Annex 9 of the 4th CTC report). The offer relates to the following areas:

- Advice regarding effective implementation of Security Council resolution 1373 (2001), in particular with respect to the requirements for implementing legislation to combat the financing of terrorism;
- participation by Liechtenstein experts in seminars and training programs for legislative, executive, and judicial officials concerning measures to combat terrorism;
- advice and on-site support regarding the establishment of Financial Intelligence Units in all aspects, including legislative, technical, and administrative aspects.

Annexes:

1) Letter of the CTC dated 31 January 2006
2) Anti-Terrorism Package
3) Due Diligence Act
4) Excerpts from the Criminal Code (§§ 128-131, 144, 145, 223 and 224)
5) FIU Annual Reports from 2005, 2004